

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

UNITED STATES OF AMERICA,

§

V.

§

CR. No. C-07-44 (1)

§

GARY LOUIS PORTER.

§

**ORDER GRANTING MOTION TO PROCEED
IN FORMA PAUPERIS AND COLLECTION ORDER**

By Order entered March 31, 2008, this Court construed Gary Louis Porter's ("Porter" or "Appellant") motion to vacate, set aside or correct his sentence pursuant to 28 U.S.C. § 2255 (D.E. 30) as a motion pursuant to 18 U.S.C. § 3582(c) seeking a reduction in sentence, and denied the motion. (D.E. 31.) Porter has since filed a notice of appeal. (D.E. 33.) He now seeks leave to proceed on appeal *in forma pauperis*. (D.E. 34.)

Appellant's motion and supporting application indicate that he has no assets or valuable property, other than his inmate trust account. He states that his income consists of approximately \$7 per month that he earns in a prison job, as well as approximately \$75 per month he receives from friends and family. He has attached a detailed report containing transactions for his account from December 29, 2007 through April 13, 2008. As of April 13, 2008, his account had a balance of \$ 110.78. His balance during that period ranged from \$.97 to \$ 561.48. (D.E. 34 at 3.) In that same period, Western Union deposits to his account totaled \$900.00.

The foregoing information demonstrates that although Appellant cannot afford to prepay the \$455 appellate filing fee, he can pay the fee in installments without undue hardship. While his appeal is not governed by the Prison Litigation Reform Act, there is no prohibition against collection of the appellate filing fee in installments where an inmate has the ability to pay in installments without undue

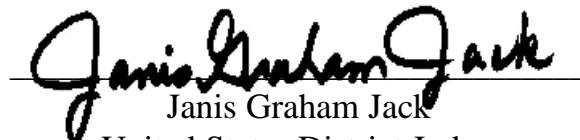
hardship. Accordingly, Appellant's motion to proceed *in forma pauperis* (D.E. 34) is GRANTED and the following orders are entered:

1. The Clerk shall file the Appellant's notice of appeal without prepayment of the appellate filing fee.
2. The Appellant is not required to pay an initial partial appellate filing fee.
3. The Appellant shall pay \$455, the full appellate filing fee, in monthly installments to the United States District Court.
4. The Bureau of Prisons shall deduct 20% of each deposit made to the Appellant's inmate trust account and forward payments to the United States District Court on a regular basis provided the account exceeds \$10.00.
5. The Appellant shall execute all consents and other documents required by the agency having custody of the Appellant to authorize the necessary withdrawals from his trust account.
6. The Clerk shall send a copy of this Order to the Inmate Accounting Officer and Paralegal Specialist, FCI Beaumont - Low, Post Office Box 26026, Beaumont, TX 77720.

NOTICE TO THE APPELLANT:

If you do not wish to pay the appellate filing fee as set forth in this Order, you must notify the Court in writing, by letter or motion, that you do not wish to prosecute the appeal. Your notice must be mailed within 30 days of the date of this Order.

It is so ORDERED this 2nd day of May, 2008.


Janis Graham Jack
United States District Judge